

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

U.S. DISTRICT COURT
DISTRICT OF MAINE
PORTLAND
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UNITED STATES OF AMERICA)
)
 v.)
)
 CHRISTOPHER HUTCHINSON)

Criminal No. 16-168-DBH

2018 SEP 14 P 3:38

DEPUTY CLERK

PROSECUTION VERSION

If the United States were required to try the above-captioned case, among other things, it would prove beyond a reasonable doubt that fishing for lobster in the cold waters off the coast of Maine consistently ranks as one of the most dangerous occupations in terms of numbers of accidents, injuries and fatalities per the equivalent of an employee working full time. Amongst the features that account for this dangerousness are the weather and sea conditions, the use of dangerous machinery, and lax attitudes towards safety. The primary cause of death in the industry is drowning and most fatalities occur after a vessel disaster. When there have been fatalities, the use of life saving equipment such as personal flotation devices (PFDs) and survival suits was low. Survival rates double when flotation and cold water equipment is used.

In 2009, Defendant Christopher Hutchinson took a 100 Ton Captain's course which included lessons on boat handling and stability, weather, and lifesaving techniques. Hutchinson was the owner and captain of the 45-foot, Young Brothers, fiberglass fishing vessel, which he renamed the "No Limits." Hutchinson bought the boat in July of 2014. At the time, he had it surveyed and the surveyor recommended among other things that Hutchinson post a placard on board stating that no drugs were allowed on board. The No Limits was equipped with survival suits, PFDs, a life ring, a life raft, and an Emergency Position Indicating Radio Beacon (EPIRB) with hydrostatic release mechanism. In November of 2014, Hutchinson was tying up the No

Limits at Linda Bean's wharf in Tenants Harbor.

The National Weather Service (NWS) issues weather forecasts and warnings to protect life and property. Its products include "Outlooks" which provide approximately three-to-five days' advance notice of hazardous marine events while mariners are getting ready to go out, "Watches" which provide two-to-three days' notice while mariners are getting set to go out, and "Warnings" which provide a day's notice. Marine warnings include "Small Craft Advisories" which are issued for sustained winds or frequent gusts of 25 to 33 knots and/or hazardous seas with waves of 5 feet or higher. "Gale Warnings" are issued for sustained winds or frequent gusts of 34 to 47 knots. These products are disseminated by radio, over the Internet and by the NWS's media partners such as private radio stations, television stations, newspapers and online sites. The NWS has approximately 34 radio transmitters in Maine, which cover the entire state, including Tenants Harbor and the zone where Hutchinson fished for lobster.

On Tuesday, October 28, 2014, the NWS began issuing a "Hazardous Weather Outlook" (HWO) for the coming weekend. An HWO is advance notice of an expected hazardous marine event having the potential to threaten life or property. The HWO was for gale force, and even possibly storm force, winds. On October 29, 2014, the NWS issued a coastal weather forecast that predicted a low pressure area moving northeast through the western Atlantic that might impact the Gulf of Maine that weekend. On October 30, 2014, the NWS began issuing a detailed forecast for Saturday that predicted Northeast winds 20 to 25 knots with gusts up to 40 knots, seas 4 to 6 feet, building to 5 to 8 feet in the afternoon, with rain likely. On Friday morning, October 31, 2014, the NWS issued a Gale Watch for Saturday morning through Monday morning. On Friday afternoon, the NWS issued a Gale Warning.

On Friday, October 31, 2014, Christopher Hutchinson illegally purchased 20 30-milligram tablets of immediate action Oxycodone. That afternoon while preparing to go lobstering, Hutchinson smoked marijuana with Tyler Sawyer's father. They discussed the predicted bad weather. Hutchinson said he thought he had time to haul traps and get home, and he assured the father that he would take care of Tyler. When Hutchinson went down to buy fuel and bait for the trip, the assistant wharf manager suggested that he not go out because of the predicted bad weather. That evening, with friends, Hutchinson went to a Halloween costume party at the Trackside Station restaurant/bar in Rockland, where he drank rum and coke.

Early Saturday morning November 1, 2014, Hutchinson's girlfriend at the time drove Hutchinson's truck, picked up Tyler Sawyer and Tomas Hammond, and drove to Linda Bean's wharf in Tenants Harbor. At about 1 am, security video shows Hutchinson, Hammond and Sawyer boarding the No Limits and leaving the wharf as rain begins to fall. Eleven Mile Ridge is Southeast of Monhegan Island, Southwest of Matinicus Island, about 25 nautical miles Southeast of Port Clyde.

The No Limits steamed to Eleven Mile Ridge, with the crew taking turns at the helm, on watch, and sleeping. They arrived before sunrise which was approximately 7:13 am. Once the sun rose, they started hauling traps. They hauled for a about three hours until the weather worsened and the wind shifted from out of the Northeast to out of the Southeast, at which point they agreed to head home, starting in around 10:30 am. Hutchinson was at the helm, "surfing" or riding the waves.

According to statements made by Hutchinson, the No Limits capsized stern over bow, while he was "surfing" the waves on his way in because the boat was pushed by a large wave,

down the front of the large wave and into the back of the wave in front. Hutchinson escaped from underneath the overturned boat, swam to it, climbed on to the back of it, and clung to the keel cooler for an hour or two until the boat rolled, and the Emergency Position Indicating Radio Beacon (EPIRB) and life raft popped up. Hutchinson swam to the life raft, climbed in, and cut the painter because he feared that the No Limits would sink and drag the life raft down with it.

At about 1:20 pm on November 1, 2014, the No Limits' EPIRB alerted. Its position was determined to be approximately 20 nautical miles Southeast of Port Clyde. Conditions in the area were consistently measured as winds out of the Northeast at 20 to 30 knots and higher, seas from 4 to 12 feet and higher, air temperature of 43 degrees Fahrenheit, and sea temperature of 53 degrees Fahrenheit.

The Coast Guard contacted the Point of Contact registered to the EPIRB, Hutchinson's father, and verified that the No Limits was underway, that three were on board, their physical characteristics, and the safety equipment on board. The Coast Guard used this information to project how objects such as the No Limits, its life raft, and crew would drift in the water given the weather and sea conditions, and to estimate how long the No Limits' crew could survive exposure to the elements. Over that drift analysis, the Coast Guard superimposed different search patterns calculated to maximize the chances of finding the objects.

The Coast Guard repeatedly broadcast an appeal for assistance to all mariners in the area. The only response it received was from the uncle of Hutchinson's girlfriend at the time, who had been fishing in the lee (East) of Matinicus that morning, but who elected not to head out to assist. The Coast Guard launched a 47-foot motor lifeboat from Rockland, and a helicopter from Cape Cod to search for the No Limits and its crew. In addition, it began recalling the crew of the 327-

foot cutter Campbell. The Maine Marine Patrol boat the Guardian III, a 46-foot Wesmac, also headed out toward the last known position of the EPIRB in an effort to assist, but wound up turning back around Matinicus because the conditions were so adverse. Neither the helicopter, nor the motor lifeboat, nor the Guardian III observed any other mariners at sea.

At approximately 4:08 pm, the Coast Guard helicopter located the No Limits' life raft. Hutchinson sent up a flare. A Coast Guard swimmer descended and put Hutchinson in a basket and hoisted him into the helicopter. Video of the helicopter cabin shows Hutchinson wearing wet shorts and t-shirt, conversing with the crew, taking off his clothes and zipping himself into a sleeping bag. Amongst the things that Hutchinson told the crew were that he last saw Hammond and Sawyer on the back of the overturned hull and that they were not wearing either survival suits or PFDs. The helicopter broke off its search in order to transport Hutchinson to Maine Medical Center (MMC) in Portland for treatment of his injuries. There, Hutchinson was treated for his injuries and exposure. He was released about 9:13 pm on November 1st.

The records of Hutchinson's treatment reflect that the "patient reports his boat was rolled by a wave. Glass caught him in the face and then the boat was rolled over. Patient and two others went into the water." Recordings of Coast Guard telephone calls reflect that Hutchinson's father Albert relayed information he got from his son in the hospital, which information included that after going into the water, Hutchinson "did see the individuals clinging to the boat. A wave came over. And no longer saw them. Lost sight of them. "

At 5:02 pm on November 1, 2014, the Coast Guard motor lifeboat located the bow of the No Limits protruding from the water. The crew observed no signs of life. Tomas Hammond and Tyler Sawyer have never been found. The Coast Guard issued letters of presumed death for



both.

Arthur Allen is a Coast Guard Oceanographer and an expert on functional survivability. He is familiar with the Coast Guard's Probable Survival Decision Aid which is a tool developed by the Army Institute for Environmental Medicine that estimates how long a person can function and survive when exposed to specified environmental conditions. The Coast Guard uses the PSD as a consideration in how long to conduct searches. Based on Tomas Hammond and Tyler Sawyer's physical characteristics and the conditions observed on November 1, 2014, Allen opines that has they been wearing survival suits, Sawyer would have survived for 18-20 hours, and Hammond would have survived for 13-16 hours, after capsizing.

On the afternoon of November 2, 2014, Hutchinson called Tyler Sawyer's father. The father was in a vehicle with his wife (Tyler's step-mother) and her mother. The father asked Christopher Hutchinson if he had been "dirty" at the time that the No Limits capsized. The father will testify that Christopher Hutchinson said yes and that he was sorry that he was in so much trouble. Hutchinson said that he had been surfing waves when he capsized, that he had gotten knocked unconscious, that when he gained consciousness, he saw the boys on the back of the capsized boat but that a wave swept them away. On November 3, 2014, Hutchinson met with Tyler Sawyer's father and his wife at the Sawyer's house. The father will testify that Hutchinson again admitted that he had been "dirty" when the No Limits capsized, that he

was knocked out, that when he came to he saw the boys on the back of the boat, and that a wave took them away.

Revised 9/14/18

Respectfully submitted,


Halsey B. Frank
United States Attorney

I have read this Prosecution Version of events. I understand it and I agree that it is true.

Date: *9/16/18*


Christopher Hutchinson, Defendant